

DISTRICT OF COLUMBIA
DOH Office of Adjudication and Hearings
825 North Capitol Street N.E., Suite 5100
Washington D.C. 20002

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

PIZZA ITALIANO
and KARIM TOKI
Respondents

Case No.: I-00-30204

FINAL ORDER

I. Introduction

On July 9, 2001, the Government served a Notice of Infraction upon Respondents Pizza Italiano and Karim Toki alleging that they violated 23 DCMR 3012.1, which requires operators of restaurants, delicatessens and catering establishments to take all necessary precautions to keep their premises free from rats and vermin. The Notice of Infraction alleged that the violation occurred on June 19, 2001 at 1253 H Street, N.E. and sought a fine of \$1,000.

Respondents filed a timely plea of Admit with Explanation requesting a suspension or reduction of the fine. On August 1, 2001, I issued an order permitting the Government to reply to Respondents' plea and request within ten days. That deadline has passed without a response from the Government.

II. Summary of the Evidence

Respondents state that they have tried their best to keep rats out of their establishment. They say that those efforts have included hiring a pest control company to come twice a month and sealing various openings to make sure that rats do not enter the premises. The Government has not disputed Respondents' claims

III. Findings of Fact

1. By their plea of Admit with Explanation, Respondents have admitted violating 23 DCMR 3012.1 on June 19, 2001.
2. Respondents have made good faith efforts to comply with the rule, as evidenced by their hiring of a pest control company and their sealing of various openings in their building.
3. Respondents have accepted responsibility for their violation.
4. There is no evidence that Respondents have a history of prior violations.

IV. Conclusions of Law

1. Respondents violated 23 DCMR 3012.1 on June 19, 2001.
2. Violation of § 3012.1 is a class 1 infraction, punishable by a fine of \$1,000 for a first offense. 16 DCMR 3216.1(p). While a suspension of the fine is not called for on this record, Respondents' acceptance of responsibility, their good faith attempts to comply with the rule and their lack of a prior history of violations warrant a reduction of the fine. The fine, therefore, will be reduced to \$500.

V. Order

Based upon the foregoing findings of fact and conclusions of law, it is, this _____ day of _____, 2002:

ORDERED, that Respondents, who are jointly and severally liable, shall pay a total of **FIVE HUNDRED DOLLARS (\$500.00)** in accordance with the attached instructions within twenty (20) calendar days of the date of service of this Order (15 days plus 5 days service time pursuant to D.C. Code §§ 6-2714 and 6-2715, now codified as D.C. Code §§ 2-1802.04 and 2-1802.05 (2001 ed.); and it is further

ORDERED, that if the Respondents fail to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, interest shall accrue on the unpaid amount at the rate of 1 ½% per month or portion thereof, starting from the date of this Order, pursuant to section 203(i)(1) of the Civil Infractions Act, D.C. Code § 6-2713(i)(1), as amended by the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, D.C. Law 13-281, effective April 27, 2001, now codified as D.C. Code § 2-1802.03(i)(1) (2001 ed.) ; and it is further

ORDERED, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondents' licenses or permits pursuant to D.C. Code § 6-2713(f), now codified as D.C. Code § 2-1802.03(f) (2001 ed.), the placement of a lien on real and personal property owned by Respondents pursuant to D.C. Code § 6-2713(i), now codified as D.C. Code

§ 2-1802.03(i) (2001 ed.) and the sealing of Respondents' business premises or work sites pursuant to D.C. Code § 6-2703(b)(7), now codified as D.C. Code § 6-1801.03(b)(7) (2001 ed.).

/s/ **1/2/02**

John P. Dean
Administrative Judge